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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/720,276   | 03/07/2001  | John W. Erickson     | 207596              | 9981             |
| 45733  | 7590        | 09/11/2007           | EXAMINER            |                  |
| LEYDIG, VOIT & MAYER, LTD.<br>TWO PRUDENTIAL PLAZA, SUITE 4900<br>180 NORTH STETSON AVENUE<br>CHICAGO, IL 60601-6731 |             |                      | LE, EMILY M         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1648                |                  |
|  |             |                      | MAIL DATE           | DELIVERY MODE    |
|  |             |                      | 09/11/2007          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|
| 09/720276                       |             |   |                     |

EXAMINER

Emily M. Le

ART UNIT

PAPER

1648

20070820

## DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

## Commissioner for Patents

The timely submission under 37 CFR 1.129(a) filed on 06/14/2007 is not fully responsive to the prior Office action because: Newly amended claims are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The originally claimed invention is directed at a method of inhibiting the development of drug resistance in an HIV infected mammal. The claims are currently directed at a method of treating HIV infection. The distinct inventions are directed to related processes. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have different effects. The effects of the original invention is directed at inhibiting the development of drug resistance in HIV infected mammal, whereas, the effect of the second invention is directed at a method of treating HIV infection in a mammal infected with HIV. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

Since the submission appears to be a bona fide attempt to provide a complete reply to the prior Office action, applicant is given a shortened statutory period of ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer, to submit a complete reply. This shortened statutory period supersedes the time period set in the prior Office action. This time period may be extended pursuant to 37 CFR 1.136(a). If a notice of appeal and the fee set forth in 37 CFR 1.17(e) were filed prior to or with the payment of the fee set forth in 37 CFR 1.17(r), the payment of the fee set forth in 37 CFR 1.17(r) by applicant is construed as a request to dismiss the appeal and to continue prosecution under 37 CFR 1.129(a). The appeal stands dismissed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emily Le whose telephone number is (571) 272 0903. The examiner can normally be reached on Monday - Friday, 8 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce R. Campell can be reached on (571) 272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E.Le/

/Emily M. Le/  
Patent Examiner  
Art Unit 1648